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SENATE BILL 6764

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Rasmussen, Roach, Shin, and Hewitt

Read first time 01/23/08. Referred to Committee on Ways & Means.

1            AN ACT Relating to creating a business and occupation tax credit  
2 for enhancing educational opportunities for children with disabilities;  
3 reenacting and amending RCW 82.32.590 and 82.32.600; adding a new  
4 section to chapter 82.04 RCW; adding a new section to chapter 82.32  
5 RCW; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.04 RCW  
8 to read as follows:

9            (1) In computing the tax imposed under this chapter, a credit is  
10 allowed for contributions made by a person to:

11            (a) A public school for the purpose of enhancing educational  
12 opportunities for eligible children; or

13            (b) A scholarship funding organization.

14            (2) The amount of credit claimed for a reporting period may not  
15 exceed the lesser of:

16            (a) Fifty thousand dollars; or

17            (b) Seventy-five percent of the tax otherwise due under this  
18 chapter for that reporting period.

1 (3) The purpose of the tax credit authorized under this section is  
2 to enhance educational opportunities for eligible children.

3 (4) As used in this section:

4 (a) "Eligible children" means children with disabilities as defined  
5 in RCW 28A.155.020.

6 (b) "Public school" has the same meaning as provided in RCW  
7 28A.150.010.

8 (c) "Scholarship funding organization" means a charitable  
9 organization in this state that:

10 (i) Is exempt from federal income tax pursuant to 26 U.S.C. Sec.  
11 501(c)(3) of the federal internal revenue code of 1986, as amended;

12 (ii) Allocates at least ninety percent of its annual revenue to a  
13 scholarship program for tuition assistance grants to eligible children;  
14 and

15 (iii) Complies with the disclosure requirements established by the  
16 department under section 2 of this act.

17 (5) The credit under this section may be claimed against taxes due  
18 for the calendar year in which the contribution is made and may not be  
19 carried over to another year. The person must make the contribution  
20 before claiming a credit authorized under this section. The amount of  
21 credit claimed for a reporting period may not exceed the tax otherwise  
22 due under this chapter for that reporting period. No refunds may be  
23 granted for credits under this section.

24 (6) The legislature finds that accountability and effectiveness are  
25 important aspects of setting tax policy. In order to make policy  
26 choices regarding the best use of limited state resources, the  
27 legislature needs information to evaluate whether the stated goals of  
28 legislation were achieved. A person taking a credit under this section  
29 shall make an annual survey to the department as provided in section 2  
30 of this act.

31 (7) No application is necessary for the tax credit. The person  
32 must keep records necessary for the department to verify eligibility  
33 under this section.

34 (8) If at any time the department finds that a person is not  
35 eligible for the tax credit under this section, the amount of taxes for  
36 which a credit has been claimed shall be immediately due. The  
37 department shall assess interest, but not penalties, on the tax credit  
38 for which the person is not eligible. The interest shall be assessed

1 at the rate provided for delinquent taxes under chapter 82.32 RCW,  
2 shall be assessed retroactively to the date the tax credit was taken,  
3 and shall accrue until the taxes for which a credit has been used are  
4 repaid.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32 RCW  
6 to read as follows:

7 (1) Each person claiming a tax preference that requires a survey  
8 under this section must report information to the department by filing  
9 a complete annual survey. The survey is due by March 31st of the year  
10 following any calendar year in which the tax preference is taken. The  
11 department may extend the due date for timely filing of annual surveys  
12 under this section as provided in RCW 82.32.590. The survey must  
13 include the amount of the tax preference taken.

14 (2) The department may request additional information necessary to  
15 measure the results of, or determine eligibility for, the tax  
16 preference, to be submitted at the same time as the survey.

17 (3) All information collected under this section, except the amount  
18 of the tax preference taken, is deemed taxpayer information under RCW  
19 82.32.330. Information on the amount of tax preference taken is not  
20 subject to the confidentiality provisions of RCW 82.32.330. If the  
21 amount of the tax preference taken as reported on the survey is  
22 different than the amount actually taken or otherwise allowed by the  
23 department based on the taxpayer's excise tax returns or other  
24 information known to the department, the amount actually taken or  
25 allowed may be disclosed.

26 (4) If a person fails to submit an annual survey under this section  
27 by the due date of the report or any extension under RCW 82.32.590, the  
28 department must declare the amount of the tax preference taken for the  
29 previous calendar year to be immediately due and payable. The  
30 department must assess interest, but not penalties, on the amounts due  
31 under this section. The interest must be assessed at the rate provided  
32 for delinquent taxes under this chapter, retroactively to the date the  
33 credit was claimed, and must accrue until the taxes for which the  
34 credit was claimed are repaid. This information is not subject to the  
35 confidentiality provisions of RCW 82.32.330.

36 (5) The department must use the information from this section to

1 prepare summary descriptive statistics by category. No fewer than  
2 three taxpayers must be included in any category. The department must  
3 report these statistics to the legislature each year by September 1st.

4 (6) For the purposes of this section, "tax preference" has the same  
5 meaning provided in RCW 43.136.021 and includes only the tax  
6 preferences requiring a survey under this section.

7 **Sec. 3.** RCW 82.32.590 and 2006 c 354 s 17, 2006 c 300 s 10, 2006  
8 c 177 s 8, 2006 c 112 s 7, and 2006 c 84 s 7 are each reenacted and  
9 amended to read as follows:

10 (1) If the department finds that the failure of a taxpayer to file  
11 an annual survey or annual report under RCW 82.04.4452, 82.32.5351,  
12 82.32.650, 82.32.635, 82.32.640, 82.32.630, 82.32.610, section 2 of  
13 this act, or 82.74.040 by the due date was the result of circumstances  
14 beyond the control of the taxpayer, the department shall extend the  
15 time for filing the survey or report. Such extension shall be for a  
16 period of thirty days from the date the department issues its written  
17 notification to the taxpayer that it qualifies for an extension under  
18 this section. The department may grant additional extensions as it  
19 deems proper.

20 (2) In making a determination whether the failure of a taxpayer to  
21 file an annual survey or annual report by the due date was the result  
22 of circumstances beyond the control of the taxpayer, the department  
23 shall be guided by rules adopted by the department for the waiver or  
24 cancellation of penalties when the underpayment or untimely payment of  
25 any tax was due to circumstances beyond the control of the taxpayer.

26 **Sec. 4.** RCW 82.32.600 and 2007 c 54 s 23 and 2007 c 54 s 22 are  
27 each reenacted and amended to read as follows:

28 (1) Persons required to file annual surveys or annual reports under  
29 RCW 82.04.4452 or 82.32.5351, 82.32.610, 82.32.630, 82.32.635,  
30 82.32.640, section 2 of this act, or 82.74.040 must electronically file  
31 with the department all surveys, reports, returns, and any other forms  
32 or information the department requires in an electronic format as  
33 provided or approved by the department. As used in this section,  
34 "returns" has the same meaning as "return" in RCW 82.32.050.

35 (2) Any survey, report, return, or any other form or information

1 required to be filed in an electronic format under subsection (1) of  
2 this section is not filed until received by the department in an  
3 electronic format.

4 (3) The department may waive the electronic filing requirement in  
5 subsection (1) of this section for good cause shown.

6 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2008.

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